

REMARKS

The Office Action of June 11, 2007 and the Notice of Non-compliant amendment have mailed November 27, 2007 have been received and reviewed. Claims 1, 3, 7, and 10 are currently pending in the application. All claims under consideration stand rejected. All amendments and claim cancellations are made without prejudice or disclaimer. No new matter has been presented. Reconsideration is respectfully requested.

Examiner Interview

Applicants note with appreciation the telephonic Examiner interview of December 21, 2007, wherein the Examiner clarified the notice of non-responsive amendment mailed November 27, 2007.

Amended Claims are within Scope of Elected Species 1(a)

Applicants respectfully submit claims 1, 6, 7, and 10 are within the scope of the elected species as found in Restriction Requirement of January 17, 2007. Specifically, claim 1 currently recites:

“the amino acid sequence of SEQ ID NO:9 wherein an original amino acid at position 2 thereof is substituted with valine and wherein said peptide is immunogenic with lymphocytes directed against metastatic melanomas.”

The only difference between the current claim 1 and the previously restricted claim 1 is 1) the absence of “at least a part of” and 2) “consisting of” rather than comprising.

The term “at least” may be defined as “not less than.” *See* at least. (n.d.). *WordNet*® 3.0. Retrieved December 24, 2007, from Dictionary.com website: [http://dictionary.reference.com/browse/at least](http://dictionary.reference.com/browse/at%20least). Thus, the scope of originally restricted claim 1 included “not less than” a part of the amino acid sequence of SEQ ID NO:9, which by definition includes the entire SEQ ID NO:9.

Additionally, amending claim 1 to include “consisting of” is also within the scope of the originally restricted claim 1. The scope of “comprising” is broader than “consisting of.” Thus consisting of is within the scope of “comprising.” Indeed, a search for “comprising” would

inherently include a search for “consisting of.”

In light of the above, applicants submit the current claims are within the scope of the elected species.

Rejections under 35 U.S.C. § 102(b)

Claims 1, 6, 7, 10, and 17 stand rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by Adema *et al.* (U.S. Pat. 6,500,919) (hereinafter “Adema”). Applicants respectfully traverse the rejections as hereinafter set forth.

Applicants note that “a claim is only anticipated if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987). Applicants respectfully assert that claims 1, 6, 7, and 10 cannot be anticipated by Adema, as Adema does not teach each and every element of the claims.

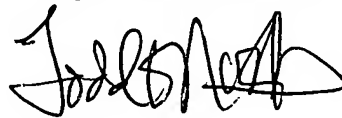
Claim 1 of the applicants’ peptide currently includes, *inter alia*, SEQ ID NO:9 wherein the amino acid at position 2 is substituted with a valine. SEQ ID NO:9 includes: Lys-Thr-Trp-Gly-Gln-Tyr-Trp-Gln. Claim 1 recites that the amino acid at position 2 is substituted with a valine. Thus, the scope of claim 1 is directed to the sequence Lys-Val-Trp-Gly-Gln-Tyr-Trp-Gln, or SEQ ID NO:2 in applicants’ sequence listing. Additionally, claim 1 recites that the peptide “consists of” which excludes any element, step, or ingredient not specified in the claim. *See* MPEP § 2111.03. Thus, while Adema may disclose a part of the claimed sequence, as stated by the Examiner in the Office action date 6/11/2007, claim 1 is not anticipated as claim 1 “consists of” the entire sequence Lys-Val- Trp-Gly-Gln-Tyr-Trp-Gln, or SEQ ID NO:2.

In contrast, Adema does not describe or disclose the peptide as currently claimed. Indeed, in the Office action dated 6/11/2007, page 15; the Examiner states that Adema teaches the amino acid Thr-Trp-Gly-Gln-Tyr-Trp-Gln-Val, which is only part of the currently claimed amino acid.

CONCLUSION

In light of the above amendments and remarks, the application should be in condition for allowance. If questions remain after consideration of the foregoing, or if the Office should determine that there are additional issues which might be resolved by a telephone conference, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Todd E. North", written in a cursive style.

Todd E. North
Registration No. 57,795
Attorney for Applicants
TRASKBRITT, PC
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: December 27, 2007
TEN/ten
Document in ProLaw